

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Shawn H. Damirian and Mojgan Takandi)
 Map 126-15-0-A, Parcel 337.00CO) Davidson County
 Residential Property)
 Tax Year 2005)

**ORDER OF DISMISSAL DUE TO
LACK OF JURISDICTION**

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$48,000	\$300,300	\$348,300	\$87,075

An appeal has been filed on March 2, 2006, on behalf of the property owners with the State Board of Equalization.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on August 9, 2006 at the Davidson County Property Assessor's Office. Present at the hearing were Shawn Damirian, the taxpayer, who represented himself and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 8488 Beautiful Valley Road in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(b)(2) & 67-5-1412(e). Nevertheless, the legislature has also provided that:

The taxpayer shall have **a right to a hearing and determination to show reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing Tenn. Code Ann. § 67-5-1412(e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except **where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added.*) *Associated Pipeline Contractors Inc.* (Williamson County, Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction to this appeal, the taxpayers must show that circumstances beyond his control prevented him from appealing to the State Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

The taxpayer received a prorated assessment on September 9, 2005. Mr. Damirian stated that he failed to read the document and did not know he needed to appeal to the State Board of Equalization within 45 days of the notice. After reviewing the documentation there is, regrettably, not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the county board.

ORDER

The administrative judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and therefore the State Board of Equalization does not have jurisdiction to hear this appeal.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

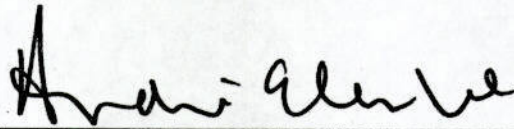
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "**must be filed within thirty (30) days from the date the initial decision is sent.**" Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**"; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which

relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of August, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Shawn Damirian
Jo Ann North, Assessor of Property